

**§ 6.35 Correction of errors.**

(a) If a person demonstrates, to the satisfaction of the Licensing Authority, that errors were made by officers or employees of the United States Government, the Licensing Authority will review and rectify the errors to the extent permitted under this subpart.

(b) To be considered, a person must provide sufficient documentation regarding the error to the Licensing Authority by letter, postmarked not later than August 31 of the calendar year following the calendar year in which the error was alleged to have been committed.

(c) If the error resulted in the loss of a historical license by a license holder, the Licensing Authority will transfer the amount of such license from Appendix 2 to Appendix 1 in order to provide for the issuance of such license in the calendar year following the calendar year for which the license was revoked. The cumulative annual transfers to Appendix 1 in accordance with this paragraph will be published in the FEDERAL REGISTER.

[65 FR 1298, Jan. 10, 2000]

**§ 6.36 Miscellaneous.**

(a) If any deadline date in this subpart falls on a Saturday, Sunday or a

Federal holiday, then the deadline shall be the next business day.

(b) All submissions required by mail in this subpart shall be by registered or certified mail, return receipt requested, with a postmarked receipt, with the proper postage affixed and properly addressed to the Dairy Import Licensing Group, STOP 1021, U.S. Department of Agriculture, 1400 Independence Avenue SW., Washington DC 20250-1021.

[61 FR 53007, Oct. 9, 1996. Redesignated at 65 FR 1298, Jan. 10, 2000]

**§ 6.37 Supersedure of Import Regulation 1, Revision 7.**

This subpart will supersede the provisions of Import Regulation 1, Revision 7 heretofore in effect (§§ 6.20 through 6.33 and appendices 1 through 3 as contained in 7 CFR subtitle A revised as of January 1, 1996). With respect to any violation of the provisions of that regulation by a licensee prior to the effective date hereof, the provisions of that regulation will be deemed to continue in full force; however, the debarment and suspension of § 6.31 of this subpart shall apply with respect to any violation of that regulation.

[61 FR 53007, Oct. 9, 1996. Redesignated at 65 FR 1298, Jan. 10, 2000]

## APPENDICES 1-3 TO SUBPART—DAIRY TARIFF-RATE IMPORT QUOTA LICENSING

## Appendices 1, 2 and 3 to Subpart—Dairy Tariff-Rate Import Quota Licensing

Articles Subject to: Appendix 1, Historical Licenses; Appendix 2, Nonhistorical Licenses;  
and Appendix 3, Designated Importer Licenses for Quota Year 2003  
(quantities in kilograms)

Article by Additional U.S. Note Number and Country of Origin  <u>NON-CHEESE ARTICLES</u>	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
<b>BUTTER (NOTE 6)</b>	<b>5,465,951</b>	<b>1,511,049</b>		
EU-15	75,918	20,243		
New Zealand	118,082	32,511		
Other Countries	62,639	11,296		
Any Country	5,209,312	1,446,999		
<b>DRIED SKIM MILK (NOTE 7)</b>	<b>600,076</b>	<b>4,660,924</b>		
Australia	600,076			
Canada		219,565		
Any Country		4,441,359		
<b>DRIED WHOLE MILK (NOTE 8)</b>	<b>3,175</b>	<b>3,318,125</b>		
New Zealand	3,175			
Any Country		3,318,125		
<b>DRIED BUTTERMILK/WHEY (NOTE 12)</b>	<b>63,820</b>	<b>161,161</b>		
Canada		161,161		
New Zealand	63,820			
<b>BUTTER SUBSTITUTES CONTAINING OVER 45 PERCENT OF BUTTERFAT AND/OR BUTTER OIL (NOTE 14)</b>		<b>6,080,500</b>		
Any Country		6,080,500		
<b>TOTAL: NON-CHEESE ARTICLES</b>	<b>6,133,022</b>	<b>15,731,759</b>		

Article by Additional U.S. Note Number and Country of Origin  <u>CHEESE ARTICLES</u>	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
<b>CHEESE AND SUBSTITUTES FOR CHEESE (EXCEPT: SOFT RIPENED COW'S MILK CHEESE; CHEESE NOT CONTAINING COW'S MILK; CHEESE (EXCEPT COTTAGE CHEESE) CONTAINING 0.5 PERCENT OR LESS BY WEIGHT OF BUTTERFAT; AND, ARTICLES WITHIN THE SCOPE OF OTHER IMPORT QUOTAS PROVIDED FOR IN THIS SUBCHAPTER) (NOTE 16)</b>	<b>23,548,526</b>	<b>7,921,205</b>	<b>9,661,128</b>	<b>7,496,000</b>
Argentina	7,690		92,310	
Australia	535,628	5,542	758,830	1,750,000
Canada	1,031,946	109,054		
Costa Rica				1,550,000
Czech Republic				200,000
EU-15	15,386,005	6,945,427	1,132,568	2,346,000
Of which Portugal is:	127,536	1,773	223,691	
Israel	79,696		593,304	
Iceland	294,000		29,000	
New Zealand	4,461,713	353,759	6,506,528	
Norway	124,982	25,018		
Poland	917,497	18,727		300,000
Slovak Republic				600,000
Switzerland	597,513	73,899	548,588	500,000
Uruguay				250,000
Other Countries	111,856	89,779		
Any Country		300,000		
<b>BLUE-MOLD CHEESE (EXCEPT STILTON PRODUCED IN THE UNITED KINGDOM) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, BLUE-MOLD CHEESE (NOTE 17)</b>	<b>2,290,547</b>	<b>190,454</b>		<b>430,000</b>
Argentina	2,000			
EU-15	2,288,546	190,454		300,000
Chile				80,000
Czech Republic				50,000
Other Countries	1			

Article by Additional U.S. Note Number and Country of Origin	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
<b>CHEESE ARTICLES</b>				
<b>CHEDDAR CHEESE, AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, CHEDDAR CHEESE (NOTE 18)</b>	<b>3,659,803</b>	<b>624,053</b>	<b>519,033</b>	<b>7,620,000</b>
Australia	937,721	46,778	215,501	1,250,000
Chile				220,000
Czech Republic				50,000
EU-15	57,168	205,832		1,000,000
New Zealand	2,539,040	257,428	303,532	5,100,000
Other Countries	125,874	14,015		
Any Country		100,000		
<b>AMERICAN-TYPE CHEESE, INCLUDING COLBY, WASHED CURD AND GRANULAR CHEESE (BUT NOT INCLUDING CHEDDAR) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING OR PROCESSED FROM SUCH AMERICAN-TYPE CHEESE (NOTE 19)</b>	<b>2,842,435</b>	<b>323,118</b>	<b>357,003</b>	
Australia	830,124	50,874	119,002	
EU-15	186,222	167,778		
New Zealand	1,662,224	99,775	238,001	
Other Countries	163,865	4,691		
<b>EDAM AND GOUDA CHEESE, AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, EDAM AND GOUDA CHEESE (NOTE 20)</b>	<b>5,276,970</b>	<b>329,432</b>		<b>1,210,000</b>
Argentina	119,003	5,997		110,000
Czech Republic				100,000
EU-15	5,018,248	270,752		1,000,000
Norway	114,318	52,682		
Other Countries	25,401	1		
<b>ITALIAN-TYPE CHEESES, MADE FROM COW'S MILK, (ROMANO MADE FROM COW'S MILK, REGGIANO, PARMESAN, PROVOLONE, PROVOLETTI, SBRINZ, AND GOYA-NOT IN ORIGINAL LOAVES) AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, SUCH ITALIAN-TYPE CHEESES, WHETHER OR NOT IN ORIGINAL LOAVES (NOTE 21)</b>	<b>6,502,444</b>	<b>1,018,103</b>	<b>795,517</b>	<b>5,165,000</b>
Argentina	3,956,114	169,369	367,517	1,890,000
EU-15	2,535,930	846,070		700,000
Poland				1,325,000
Romania				500,000
Uruguay			428,000	750,000
Other Countries	10,400	2,664		

Article by Additional U.S. Note Number and Country of Origin  <u>CHEESE ARTICLES</u>	Appendix 1	Appendix 2	Appendix 3	
			Tokyo Round	Uruguay Round
<b>SWISS OR EMMENTHALER CHEESE OTHER THAN WITH EYE FORMATION, GRUYERE-PROCESS CHEESE AND CHEESE AND SUBSTITUTES FOR CHEESE CONTAINING, OR PROCESSED FROM, SUCH CHEESES (NOTE 22)</b>	<b>5,735,723</b>	<b>915,591</b>	<b>823,519</b>	<b>380,000</b>
EU-15	4,336,501	815,493	393,006	380,000
Switzerland	1,324,462	95,025	430,513	
Other Countries	74,760	5,073		
<b>CHEESE AND SUBSTITUTES FOR CHEESE, CONTAINING 0.5 PERCENT OR LESS BY WEIGHT OF BUTTERFAT (EXCEPT ARTICLES WITHIN THE SCOPE OF OTHER TARIFF-RATE QUOTAS PROVIDED FOR IN THIS SUBCHAPTER), AND MARGARINE CHEESE (NOTE 23)</b>	<b>3,825,265</b>	<b>599,643</b>	<b>1,050,000</b>	
EU-15	3,662,021	587,979		
Israel			50,000	
New Zealand			1,000,000	
Poland	163,243	11,664		
Other Countries	1			
<b>SWISS OR EMMENTHALER CHEESE WITH EYE FORMATION (NOTE 25)</b>	<b>18,228,931</b>	<b>4,068,400</b>	<b>9,557,945</b>	<b>2,620,000</b>
Argentina		9,115	70,885	
Australia	209,698		290,302	
Canada			70,000	
Czech Republic				400,000
Hungary				800,000
EU-15	13,236,214	3,240,614	4,003,172	1,220,000
Iceland	149,999		150,001	
Israel	27,000			
Norway	3,206,405	448,905	3,227,690	
Switzerland	1,314,340	369,765	1,745,895	200,000
Other Countries	85,275	1		
<b>TOTAL: CHEESE ARTICLES</b>	<b>71,910,644</b>	<b>15,989,999</b>	<b>22,764,145</b>	<b>24,921,000</b>

[68 FR 25479, May 13, 2003]

### Subpart—Price-Undercutting of Domestic Cheese by Quota Cheeses

AUTHORITY: Sec. 702, Pub. L. 96-39, 93 Stat. 144, 19 U.S.C. 1202 note.

SOURCE: 45 FR 9883, Feb. 13, 1980, unless otherwise noted.

#### § 6.40 General.

This subpart sets forth the procedures applicable to the determination

by the Secretary of Agriculture as to whether the price at which any article of quota cheese is being offered for sale in the United States on a duty-paid wholesale basis is less than the domestic wholesale market price of similar articles produced in the United States (i.e., price-undercutting) in accordance with section 702 of the Trade Agreements Act of 1979 (Pub. L. 96-39, 93 Stat. 144, 19 U.S.C. 1202 note) (hereinafter referred to as the Act).

**§ 6.41 Definitions.**

(a) *Complainant* means the person who has filed with the Investigating Authority, in accordance with the procedures set forth in this subpart, a written complaint alleging that price-undercutting is occurring.

(b) *Country of origin* means the country, as defined in 19 CFR 134.1(b), in which the quota article subject to this regulation was produced or manufactured.

(c) *Foreign government* means the government of the country of origin or, for purposes of determining whether a subsidy has been provided for the member states of the European Economic Community, the subsidy granting bodies of the European Economic Community.

(d) *Investigating Authority* means the Director, Dairy, Livestock and Poultry Division, Commodity Programs, Foreign Agricultural Service.

(e) *Quota cheese* means the articles provided for in the following items of the Tariff Schedules of the United States:

- 117.00 (except Stilton produced in the United Kingdom);
- 117.05 (except Stilton produced in the United Kingdom);
- 117.15;
- 117.20;
- 117.25;
- 117.42;
- 117.44;
- 117.55;
- 117.60 (except Gammelost and Nokkelost);
- 117.75 (except goat's milk cheeses and soft-ripened cow's milk cheeses);
- 117.81;
- 117.86;
- 117.88 (except goat's milk cheeses and soft-ripened cow's milk cheeses);

(f) *Secretary* means the Secretary of Agriculture.

(g) *Subsidy* has the same meaning as such term has in section 771(5) of the Tariff Act of 1930 as added by section 101 of the Trade Agreements Act of 1979 (19 USC 1677(5)).

(h) The *United States* means the Customs Territory of the United States, which is limited to the United States, District of Columbia and Puerto Rico.

**§ 6.42 Complaints of price-undercutting.**

(a) *Submission of complaint.* Any person who has reason to believe that the

price at which any article of quota cheese is offered for sale or sold in the United States on a duty-paid wholesale price basis is less than the domestic wholesale market price of similar articles produced in the United States and that a foreign government is providing a subsidy with respect to such article of quota cheese may file with the Investigating Authority a written complaint making such allegation.

(b) *Contents of complaint.* Such complaint shall contain, or be accompanied by, information to substantiate complainant's allegations, in substantially the following form:

(1) The name and address of the complainant.

(2) The location of the domestic wholesale market in which price-undercutting is alleged to be occurring.

(3) The article of quota cheese involved in the alleged price-undercutting.

(4) The country of origin of such article of quota cheese.

(5) The similar domestic article, the price of which the complainant believes is being undercut.

(6) The month and year that the complainant first concluded that the price-undercutting was taking place.

(7) To extent known to the complainant, all pertinent facts with regard to the alleged subsidy, and, if known, the statutory or other authority under which it is paid, the manner in which it is paid, and the value of such subsidy when received and used by producers or sellers of such quota cheese.

(8) All other information which the complainant believes substantiates the allegation of price-undercutting, including the complainant's estimate of the domestic wholesale market price of the similar article produced in the United States and the duty-paid wholesale price of the quota cheese involved. If available, samples of the domestic and imported cheese products should be submitted.

**§ 6.43 Determinations.**

(a) *Making determinations.* Not later than 30 days after receiving an acceptable complaint, as described in § 6.42(b), alleging price-undercutting, the Secretary shall make a determination as to the validity of the allegation. In

making such determination, the following shall apply:

(1) The "domestic wholesale market" shall be one or more of the three major U.S. market areas, viz., New York City, Chicago, and San Francisco, and/or any other market area within the Customs Territory of the United States, which the Investigating Authority determines most representative of the area specified by the complainant as the one in which price-undercutting is alleged to be occurring (hereinafter referred to as "designated area").

(2) The "duty-paid wholesale price" determined by the Investigating Authority shall be the average of prices at which wholesalers have sold or offered for sale in the designated area the article of quota cheese alleged to be involved in price-undercutting, as obtained in a survey directed by the Investigating Authority during the investigation: *Provided*, That whenever the designated area is not or does not include one of the major market areas specified in paragraph (a)(1) of this section, the Investigating Authority may adjust the average of prices determined for such designated area on the basis of the average of prices determined for the major market area which is determined to be the most representative of the designated area, taking into consideration any special factors which may be affecting prices in the designated area.

(3) The "domestic wholesale market price" determined by the Investigating Authority for a similar article produced in the United States to that article of quota cheese which is alleged to be involved in price-undercutting shall be the average of prices at which wholesalers have sold the similar article produced in the United States in the designated area, as obtained in a survey directed by the Investigating Authority during the investigation: *Provided*, That whenever the designated area is not or does not include one of the major market areas specified in paragraph (a)(1) of this section, the Investigating Authority may adjust the average of prices determined for such designated area on the basis of the average of prices determined for the major market area which is determined to be the most representative of

the designated area, taking into consideration any special factors which may be affecting prices in the designated area.

(4) "Similar article produced in the United States" shall be an article of cheese, cheese product, or imitation cheese produced in the United States and marketed in the domestic wholesale market, which is determined by the Investigating Authority, based upon available information to be most like the imported article of quota cheese alleged to be involved in price-undercutting, in terms of its physical properties and end use. In making this determination, first consideration shall be given to the normal end uses of the article produced in the United States in comparison with the end use of the article of quota cheese alleged to be involved in price-undercutting. If the end use of both articles is determined to be the same (e.g., processing or retail sale), the physical characteristics of the two articles shall be considered.

If the common end use of the two articles is processing, the representative samples of the two articles shall be examined in terms of processing quality, taking special note of processing yields. If the common end use of the two articles is retail sale, representative samples of the two articles shall be examined in terms of similarities of taste, texture, general appearance, quality, age, and packaging. Imported imitation quota cheese shall only be compared with imitation domestic cheese. If it is determined that the domestic cheese the price of which is claimed to be undercut is not similar to the quota cheese allegedly undercutting it, there shall be no finding of price-undercutting.

(b) *Reporting determinations.* Determinations by the Secretary as to the validity of allegations of price-undercutting made under this subpart shall be published in the FEDERAL REGISTER not later than 5 days after the date the determination is made.

#### § 6.44 Delegation of authority.

The powers vested in the Administrator, FAS, insofar as such powers relate to the functions of the Investigating Authority by this regulation

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are hereby delegated to the Investigating Authority. This final rule has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." a determination has been made that this action should not be classified "significant" under those criteria. A Final Impact Statement has been prepared and is available from Carol M. Harvey in room 6622, South Agriculture Building, 14th and Independence Ave., SW., Washington, DC 20250.

**PART 7—SELECTION AND FUNCTIONS OF AGRICULTURAL STABILIZATION AND CONSERVATION STATE, COUNTY AND COMMUNITY COMMITTEES**

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- 7.29 Delegation of authority to Deputy Administrator.
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- 7.34 Custody and use of books, records, and documents.
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- 7.38 Retention of authority.

AUTHORITY: Secs. 4 and 8 of the Soil Conservation and Domestic Allotment Act, as amended; 49 Stat. 164 and 1149, as amended (16 U.S.C. 590d and 590h).

SOURCE: 52 FR 48512, Dec. 23, 1987, unless otherwise noted.

**§7.1 Administration.**

(a) The regulations of this part are applicable to the election and functions of community and county Agricultural Stabilization and Conservation ("ASC") committee and the functions of State ASC committees ("community", "county", and "State committees", respectively). State, county, and community committees shall be under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service ("ASCS").

(b) State, county, and community committees, and representatives and employees thereof, do not have authority to modify or waive any of the provisions of this part.

(c) The State committees shall take any action required by these regulations which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with this part, or

(2) Require a county committee to withhold taking any action which is not in accordance with this part.

(d) No provision or delegation herein to a State or county committee shall preclude the Administrator, ASCS, or a designee of the Administrator, from determining any question arising under